

Supreme Court to Hear Ethnic Profiling Case

From the Nov. 11, St. Paul *Fictional Observer*

Attorney General John Ashcroft will represent the Justice Department today in oral argument before the Supreme Court in an ethnic profiling case. The case stems from the detention of Hamud bin Said, a St. Paul resident and U.S. citizen born in Detroit.

Mr. bin Said won an injunction from a federal district court banning the co-operation of local police departments in an FBI program where many U.S. residents of middle eastern descent are interviewed by FBI investigators with local police assistance. The Justice Department has appealed the injunction to the Supreme Court.

The Justice Department brief to the Court states, "In a time of war, the government is obligated to pursue every possibility to protect the people of the United States against attack. While the government recognizes that many of those interviewed in the program have no connection whatsoever to terrorism, it must also be observed that the inconvenience imposed on the interviewees is minor compared to the potential benefit to national security and the lives of Americans."

Mr. bin Said was detained one year ago for questioning by the FBI about possible terrorist activities. He was held for three days in St. Paul police custody before being released. Following this, the American Civil Liberties Union obtained the injunction that is the subject of today's hearing.

ACLU lawyer Sheila Foster, who will argue today before the Court, said yes-

terday in a press conference, "This is a simple matter of equal protection: the right of citizens and residents not to be targeted by police because of their ethnic background, religion, or race."

In a February 27 letter to President George W. Bush, the Leadership Conference on Civil Rights said singling out people of Middle Eastern or South Asian ancestry is just as wrong as racial profiling directed against blacks and Hispanics. "Not all drug crimes are committed by African Americans and Hispanics, and, likewise, not all terrorism is committed by Arabs, Muslims or South Asians," the group wrote.

In February 2001, Bush called for an end to profiling on the basis of race. "It's wrong and we will end it in America," he told a joint session of Congress.

An FBI spokesperson said that the interview program, in which people of Middle Eastern or South Asian origin are detained for questioning, is a screening device. He said, "We do not have the investigatory resources to do a background check of every individual before questioning them. This program saves manpower and allows us to do a better job with the trained personnel we have available."

According to the Justice Department brief, the majority of interviewees participate voluntarily. The brief states, "These are loyal citizens who know that their participation saves manpower."

Ms Foster, in yesterday's press conference, countered, "This is the police running amuck. There is no law en-

forcement or national security benefit in this program: it is a waste of resources that could be better spent looking for real security threats. This is just a program that harasses innocent people, and treats them like criminals. It creates resentment and fear in the community and hinders the police from performing their legitimate duties.

Approximately 500,000 people are on the FBI interview list, according to documents filed in the case.

A St. Paul Police spokesperson confirmed that the FBI program has made extensive use of local police resources, but observed that most of the additional work has been done on an overtime basis, paid for with federal funds.

FBI documents recently obtained by the Washington *Times* estimate that there are approximately 5000 people connected to Al Qaeda at large in the United States. This estimate has been challenged by security experts who believe that Al Qaeda operatives in the U.S. number only about 100. Another several hundred people are believed to be active in other terrorist groups.

The Justice Department brief traces the origin of the interview program to a statistical analysis of terrorist incidents over the past 5 years. The brief states, "Over 90% of the identified terror group activists belonged to these specific ethnic groups. This points to the efficacy of focussing a screening operation on those groups."

A decision in the case is expected in June.

A fictitious article written for Math 10 by D. Kaplan. Paragraphs starting "In a February 27 letter..." and "In February 2001" are from the Washington Post, Feb. 28, 2003, p.A5

NAME:

Discuss the article in your group. Then, individually, answer the following questions, handing in the paper during the next Math 10 class.

1. According to the article — which describes a fictitious program — the FBI believes that the interview program is an effective way to identify terrorists. What numerical evidence supporting this claim is given in the article? (Note: you may or may not agree that the evidence is valid, but what is it?)
2. According to the fictitious ACLU lawyer, the interview program is inefficient. What numerical evidence can you derive from the article supporting this claim? (Again, you may or may not agree with the evidence, but what is it?)
3. We are going to analyze the situation using conditional probability and detection theory. The stated purpose of the program is to identify a condition: TERRORIST or NOT. The screening program is based on observable: for want of better short terms we'll use ETHNIC or OTHER.

The FBI's justification for the program is the claim that 90% of identified terrorists are of Middle Eastern or South Asian origin. Regardless of the validity of this claim, it is in the form of a conditional probability.

There are two similar sounding but different conditional probabilities involved here. One is the probability of being an ETHNIC given that a person is a terrorist. The other is the probability of being a terrorist given that a person is a middle easterner.

Which conditional probability is relevant to deciding whether the screening program can be efficient?

Each of these probabilities can be calculated from information given in the article: one directly, the other indirectly. To do so, it is helpful to create a 2×2 table to summarize the data:

Observable	Condition		
	TERR.	NOT	
ETHNIC	A	B	500,000
OTHER	C	D	299,500,000
	X	$300,000,000 - X$	300,000,000

Your first task is to estimate numerical values for the quantities represented with A , B , C and D . Given these four numbers, you can easily compute the relevant conditional probability. To start, you will need to guess the total number of terrorists in the U.S., denoted X . The article does not give a precise value for X , but you can make a reasonable range of guesses from the article's information. The conditional probability of ETHNIC given TERRORIST is the quantity A/X . Given your guess of X , and a value for the conditional probability (perhaps based on the FBI's claim or any other information you might have), find A .

Once you have A the other numbers in the table can be found using the marginal numbers, e.g., that $A + C = X$, $A + B = 500,000$, etc. Each of the numbers in the margins of the table are based on data from the article or the general knowledge that the U.S. population is approximately 300,000,000.

Once you have the relevant conditional probability, you need to decide whether this probability is high enough to justify the program. You might base this decision on constitutional principles, but it's also helpful to have other situations to compare it to. One possible comparison is a program of random interviews of all U.S. residents to check for possible criminal activity. Such a program would likely be rejected by a large majority of Americans. Estimate the fraction of U.S. residents engaged in criminal activity to find the conditional probability of CRIMINAL ACTIVITY given U.S. RESIDENT. (Hint: It might help in making your estimate to know that approximately 1% of U.S. Residents are in prison.)